25X1

The Director of Central Intelligence
Washington, D.C. 20505

21 APR 1977

Dear Andy,

Thanks for your letter of 23 March and for forwarding your interesting proposals.

The rights of children born to Americans abroad is obviously an important matter and I am pleased to know you are giving this issue so much of your personal attention. I am afraid, however, that in my present position it is a subject in which our charter obviates my getting involved.

Best wishes for continued success in your various endeavors and many thanks again for your letter.

Yours,

STANSFIELD TURNER
Admiral, U.S. Navy

Mr. Andrew P. Sundberg

STAT

Andrew P. Sundberg

STAT

23 March 1977

Admiral Stansfield Turner
Director
Central Intelligence Agency
Washington, D.C.

Dear Stan,

I thought that you might be interested to know about a particularly acute American "Human Rights" problem which is being actively discussed here in Europe. This problem concerns the citizenship rights of children born to families in which one parent is an American citizen and one is not. Such children are born with an inferior "Second Class" citizenship which can someday expire. There are also restrictions on what they can do and where they can live which they will have to bear for the rest of their lives. I have two such "Second Class" citizen children and have been working with the Congress for over a year to bring about a change.

More recently I have been designated the spokesman for the Democratic Party here in Europe on citizenship matters. I have prepared a draft position paper on this and have also drafted a bill calling for remedial legislation. We over here are very impressed with Jimmy Carter's call for a new respect for Human Rights throughout the world. We would be particularly proud to be the vehicle by which he could demonstrate to the world that he is equally concerned to promote the rights of Americans who now suffer discrimination.

I would appreciate any help that you could offer us on this. My kindest regards, and sincere thanks.

Most respectfully,

AN ACT

To Amend Sections 301 and 350 of the Immigration and Nationality Act.

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled, That this Act may be cited as the "Immigration and Nationality Act Amendments of 1977".

Sec. 2. Section 301 (a) 7 of the Immigration and Nationality Act (8 U.S.C. 1401) is amended to read as follows:

"(7) a person born outside the geographical limits of the United States and its outlying possessions of parents one of whom is an alien, and the other a citizen of the United States who, prior to the birth of such person, has had a residence in the United States or one of its outlying possessions."

Sec. 3. Section 301 (b) of the Immigration and Nationality Act (8 U.S.C. 1401) as amended by Public Law 92-584 (22 October, 1972) is amended by striking out all of this section.

Sec. 4. Section 350 of the Immigration and Nationality Act (8 U.S.C. 1482) is amended by striking out all of this section.

UNCLASSIFIED	CONFIDENTIAL	SECRET

OFFICIAL ROUTING SLIP

TO	NAME AND ADDRESS	DATE	INITIALS
1	HH		
2			
3			
4			
5			
6			

	ACTION		DIRECT REPLY		PREPARE REPLY
	APPROVAL		DISPATCH		RECOMMENDATION
	COMMENT		FILE		RETURN
	CONCURRENCE		INFORMATION		SIGNATURE

Remarks:

STAT [redacted] who is acting for Ben, says they would already have pulled this for the Admiral if there was a personal relationship. Therefore he feels this pro forma response is good -- the Admiral should be a little aloof on this one. ~~jx~~ Suggest we send this up. jdc

agree/a little note explaining this would help

FOLD HERE TO RETURN TO SENDER

FROM: NAME, ADDRESS AND PHONE NO.	DATE
STAT [redacted]	11/4

UNCLASSIFIED	CONFIDENTIAL	SECRET

FORM NO. 237 Use previous editions ☆USGPO: 1976 — 202-953 (40)

ROUTING AND RECORD SHEET

SUBJECT: (Optional)
Andrew P. Sundberg

Registry
77-6998/1

FROM:
STAT
Deputy Assistant for Public Affairs

EXTENSION | NO.

1 April 1977

TO: (Officer designation, room number, and building)	DATE RECEIVED	DATE FORWARDED	OFFICER'S INITIALS	COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)
1. STAT SA/DCI 7-D-60				STAT
2.				Herb Hetu thought you might have some thougts on the attached draft for a letter from the Admiral to Mr. Sundberg.
3.				I am concerned that the Admiral should not get involved in American political activities, particularly in view of the fact that Sundberg is pressing this with Congressmen. I don't know how well the Admiral knows him. Thus, the rather pro forma response.
4.				
5.				
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7.				STAT
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10.				
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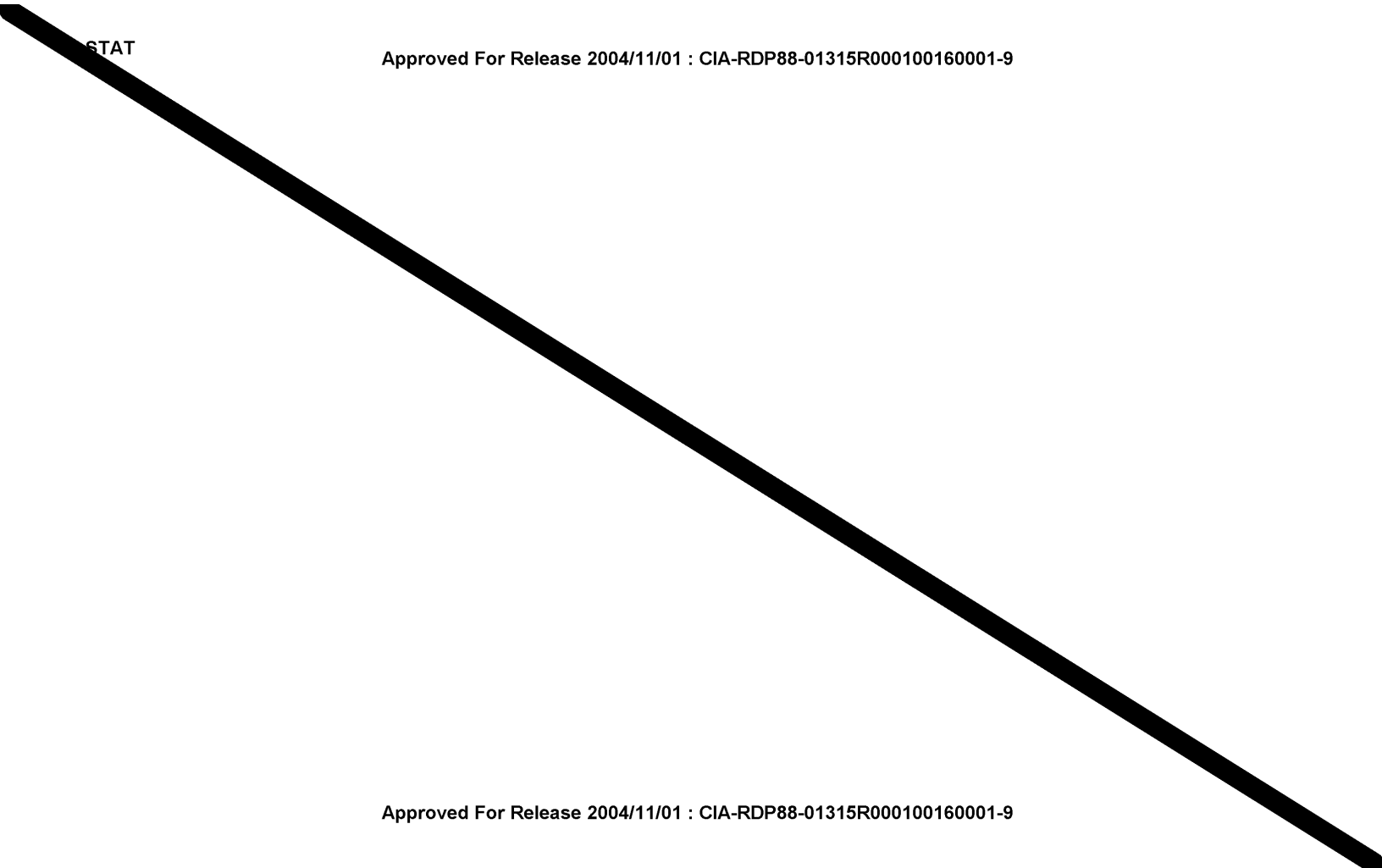
15.				



Approved For Release 2004/11/01 : CIA-RDP88-01315R000100160001-9

UNCLASSIFIED | CONFIDENTIAL | SECRET

Public Affairs

EXECUTIVE SECRETARIAT

Routing Slip

TO:		ACTION	INFO	DATE	INITIAL
1	DCI				
2	DDCI				
3	D/DCI/IC				
4	DDS&T				
5	DDI				
6	DDA				
7	DDO				
8	D/DCI/NI				
9	GC				
10	LC				
11	IG				
12	Compt				
13	D/Pers				
14	D/S				
15	DTR				
16	Asst/DCI	X			
17	AO/DCI				
18	C/IPS				
19	DCI/SS				
20	D/EEO				
21					
22					
	SUSPENSE	5 April 1977 Date			

Remarks:

Please prepare response for DCI signature. Perhaps should consider referral (under DCI signature?) to Justice and/or State--altho assume writer has put his case there too.

[redacted]
Executive Secretary
30March77
Date

STAT

3637 (7-76)

Executive Registry
77-6998/2

7 April 1977

DCI,

Ref the attached reply to Andrew Sundberg, who identifies himself as "spokesman" for the Democratic Party in Europe on citizenship matters. I don't know how well you know him, but suggest in view of the fact that he is lobbying with Congress on this we should stay somewhat aloof from his proposals. Believe the reply is polite but distant.

STAT

Herbert E. Hetu

Executive Registry
77-6998/3

Know him better than attached - but don't want to get involved - 1) ✓ my last letter to him of a few weeks ago 2) Redraft pls

COMMANDER IN CHIEF
ALLIED FORCES SOUTHERN EUROPE

21 FEB 1977

Dear Andy,

Many thanks for your note of congratulations.

I appreciate your update on the ILO and I am interested enough to inquire further into the matter once things settle down a bit. I would, of course, want to know many more particulars than have been generally available in the press regarding the reasons for our earlier decision and the status of the organization. Thanks for alerting me to the situation.

Best to you and again thanks.

Yours,

STANSFIELD TURNER
Admiral, U.S. Navy

Mr. Andrew P. Sundberg

STAT

Andrew J. Tundavery

STAT

9 February 1977

Stansfield Turner, Esq.
Admiral, U.S. Navy
Commander in Chief
Allied Forces Southern Europe

Dear Stan,

Little did I realize when writing you just a short time ago that I would take my mechanical pen in hand again so soon to congratulate you on your selection to what must be the most impossible job in the world. Jimmy Carter is also to be congratulated on his perspicasity. I remeber reading that he tried for a Rhodes Scholarship, also, and perhaps he feels that now he at least vicariously will be enjoying some of the benefits!

I wonder if it would be opportune, also, in light of your new responsibilities to take the trouble to bring to your attention a small matter than could loom much larger later this year. It concerns the continuation of US membership in the International Labour Organization. As you probably know, John Dunlop, the former Secretary of Labor, sent a letter to the ILO in the fall of 1975 indicating that the US was giving formal notice of its intent to withdraw from the ILO with effect in the fall of 1977. The accumulated discontent of the AFL-CIO with the activities of the ILO, and the rather malignant neglect of most of the rest of the government in Washington resulted in this rather unfortunate culmination which could lead to eventual severe consequences. There is a long litany of complaints against the ILO by American Labor leaders, but the ILO has been making major efforts to reform itself, and, has also become one of the lead International Organizations in the effort to generate meaningful development in disadvantaged countries of the world through programs to build employment, and particularly employment in rural areas.

The nexus of the immediate problem, and the reason that I am taking the trouble to bother you with this right now, is that

the draft budget the departing Ford administration submitted to the Congress contained no appropriation for the ILO in FY 1978, with a footnote that we probably would no longer be a member then. Unless such an appropriation is added by the Carter group before the end February resubmission period, it could be multiply unfortunate.

Firstly, getting a later supplemental appropriation might be difficult with the Congress now adhering much more strictly to its self-imposed restraints.

Secondly, many international observers will be reading the entrails of this first Carterized sacrifice to the Congressional gods, and omission of an ILO appropriation will be no doubt taken for a policy committment before one may have been made.

Thirdly, due to the normal rotation of the institutional siderial mechanisms, the US is due to return to the Chairmanship of the ILO's governing Body this summer, and in this capacity would be particularly well situated to bring about some, if not many, of the reforms that we have been demanding.

Fourthly, and finally, there are many reasons why the unique institutions of the ILO should be preserved. It is the only one of the UN Organizations in which not only governments are represented, but which also has separate delegations from Business and from Labour throughout the world. The machinery may be geriatric, but the beast is still a remarkable one and well worth saving.

Sorry to go on so long about this, but, even a small word from you might suffice to encourage OMB to return the ILO dues to the budget. This would be a most encouraging sign to many countries who are looking to American leadership.

If the recruiters ever get desperate for a participant in the forthcoming trade negotiation talks here in Geneva, or in some challenging post elsewhere I might be very interested.

Best wishes in your awesome new job.

Most sincerely,

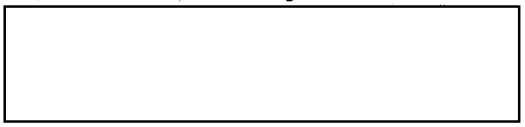
AMERICAN DEMOCRATS ABROAD

DRAFT POSITION PAPER

AN APPEAL FOR EQUITY IN AMERICAN CITIZENSHIP LAWS

Prepared by:

Andrew P. Sundberg



STAT

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A SUMMARY

American Democrats Abroad, a constituent part of the Democratic Party of the United States, has dedicated itself to seeking the elimination of all discriminatory legislation which treats Americans living overseas in an inferior manner to Americans living in the United States.

One of the gross inequities now present in American law concerns the citizenship of children born abroad in families where one parent is American and one in not.

We hereby ask the Congress to change the present law, the Immigration and Nationality Act of 27 June, 1952, in the following manner:

Section 301 (a) 7: delete all of the present, and substitute the following new paragraph:

"(7) a person born outside the geographical limits of the United States and its outlying possessions of parents one of whom is an alien, and the other a citizen of the United States who, prior to the birth of such person, has had a residence in the United States or one of its outlying possessions."

Section 301 (b): delete all of the present section.

Section 350: delete all of the present section.

With these changes, the citizenship laws would make all American citizens equal again both in respect to their right to transmit citizenship to their children no matter where they are living, and also in respect to the inalienable right of retention of citizenship throughout their lives.

We seek no single favor for any American living abroad, but we insist that they must be as equal as any other American citizen. We reject "second class" citizenship in any and all forms and are dedicated to its abolition.

INTRODUCTION

There are gross inequities in the present law concerning the acquisition and retention of American Citizenship. These inequities are due to the discriminatory way in which citizenship is given at birth to the children of some American citizens and denied at birth to children of other American citizens. The law also discriminates inequitably by requiring some citizens to subsequently perform specific periods of residence in the United States to retain their citizenship while not requiring this residence of others. Further, the law grossly mistreats those who are born with dual nationality at birth. Such dual nationals are consigned to a "second class" citizenship category which is permanent. As such they have less rights than those who become naturalized citizens.

The original Constitution was mute on the definition of citizenship. The 14th Amendment, however, granted citizenship to any person born in the United States regardless of the nationality of the parents. The early Congresses voted laws for citizenship of children born overseas granting this automatically at birth to all children of male Americans, but were silent on the citizenship of American female citizens married to aliens having children abroad. When the law was harmonized sexually in 1932, much more stringent conditions precedent and conditions subsequent were attached to the acquisition and retention of citizenship by children born into families with one citizen and one non-citizen parent.

The present situation is highly anomalous. Children of aliens attain full and unimpeded American citizenship if they are born in the United States, while some children of American citizens who are born overseas have no rights at all to American citizenship and must immigrate and be naturalized to acquire American citizenship. Some Americans living abroad can transmit citizenship to their children born abroad, some cannot. Some children born with citizenship abroad must come to the United States and live for a specified period of time or else automatically lose this citizenship. Children of aliens born in the United States need never return and yet do not risk this loss for failure to reside in the USA.

The law is unfair, highly discriminatory, and should be changed. No citizen should be more equal than another.

The Size of the Problem

According to the State Department, during each of the last five years approximately 38,000 children were born overseas with American citizenship automatically acquired at birth. Of these, approximately 39% (or 15,000) were children with only one American citizen parent. It is these children in this latter category who are now required to reside in the United States for two years between their 14th and 28th birthdays or else their citizenship expires when they turn 26.

During the last five years, between one hundred and two hundred children lost their citizenship each year for failure to meet this subsequent residency requirement in the United States.

Children born with dual nationality at birth have an additional problem under the present law. They are forbidden to subsequently reside in the other country whose nationality they acquired at birth after the age of 23 for a period longer than three years if they have ever accepted any benefit from any foreign state. During the last five years between twenty and thirty children lost their citizenship each year due to this dual nationality jeopardy.

While the numbers of children losing their citizenship each year is still relatively small, it must be remembered that children losing their citizenship now would have been born twenty-six years ago when it is likely that many fewer such children were being born each year. It is probable that in the coming years this problem will grow increasingly more significant.

The Proposed Remedies

American Democrats Abroad are working to insure that all American citizens living overseas are treated as fairly under American law as any citizen living in the United States. We oppose the notion that a citizen living abroad is in any way inferior to one living in the United States. We oppose all laws that discriminate against American citizens living abroad and especially those which discriminate against the children of American citizens living abroad. We oppose the idea that there can ever be a distinction between one citizen and another in terms of their rights and obligations. We oppose "second class" citizenship. We therefore propose

that three specific changes be made in the present Immigration and Nationality Act (of 27 June, 1952). These changes, as discussed and justified below, would make the acquisition of citizenship uniform for the children of all American citizens living abroad regardless of their age or of the choice of their spouse. They would also make the laws uniform in terms of what must be done by any citizen to retain his citizenship, and finally they would make the law uniform in terms of where any citizen can live in the world without being in jeopardy of losing his citizenship.

It should be abundantly clear that this request is not a request for special or privileged status for children born overseas. On the contrary, it is simply a request that all notions of "second class" citizenship be declared anathema, and that henceforth all citizens be treated equally before and by the law.

* * * * *

SECTION 301 (a) 7

Section 301 of the Immigration and Nationality Act defines most of the cases in which American citizenship is transmitted automatically at birth from a citizen parent to his child. Any child born in the United States regardless of the citizenship of the parents is automatically a citizen of the United States. Any child born overseas to two American parents is also automatically a citizen at birth provided that one American parent had formerly resided in the United States,(no residence period stated).

Transmission of citizenship to children born overseas in families where only one parent is a United States citizen is convered by Section 301 (a) 7. This reads such that the following will be nationals and citizens of the United States at birth:

"(7) a person born outside the geographical limits of the United States and its outlying possessions of parents one of whom is an alien, and the other a citizen of the United States who, prior to the birth of such person, was physically present in the United States or its outlying possessions for a period or periods totaling not less than ten years, at least five of which were after attaining the age of fourteen years: PROVIDED,....."

(the rest of the paragraph lists permissible residence abroad as a child or adult which will count for constructive time to fulfill the ten year requirement if this residence was for certain purposes).

Section 309 (c) allows an unwed mother to transmit citizenship to her child if the father never recognizes the child, and if the mother had previously lived for one year in the United States.

The Ineguities of the Law

The law sets age restrictions on parents maried to aliens as qualifications for transmitting citizenship to children. It sets heavy prior residency requirements on citizens who chose to marry non-citizens and live overseas. Thus, citizens are not equally able to transmit citizenship to their children. Indeed, it is easier to transmit citizenship to an illegitimate child than to a legitimate one.

The net result of this law in its application is as follows:

1. Some American citizens overseas can transmit citizenship to their children and some can't. The ability to do so does not depend upon the unique qualifications of one citizen as opposed to another, but rather depends upon the choice of the spouse, and the nationality of the spouse so chosen. This seems to be a most unfair discrimination.

2. Some American citizens overseas cannot transmit citizenship to their children merely because of their age. An American married to an alien cannot transmit citizenship to a child if the American is not nineteen years of age. This seems most unfair since citizens are held to acquire majority at eighteen and as of this age can be required to perform military service, can vote, etc. However, now, they cannot transmit any rights of citizenship to their children if the child is born overseas and the spouse is an alien.

3. Some American citizens overseas cannot transmit citizenship to their children, while aliens who happen to be in the United States always can have their children automatically acquire citizenship if the birth takes place in the United States. This seems to be a grotesque anomaly in the law. We give rights to aliens that we deny to our own citizens.

4. Some mothers who are American citizens can give citizenship to their children born overseas without ever having lived in the United States. Some need to have only lived for a day in the United States, some need to have lived for one year, and some need to have lived for ten years. The length of prior residence again depends upon the spouse. The inequity is that mothers with an alien spouse having legitimate children must have lived ten years in the United States to transmit citizenship, while an unwed mother can transmit citizenship to her child overseas provided she has lived for only one year in the USA. A mother with an American husband need never have lived in the United States and if she is a citizen her husband need only have lived there for one day in his life to transmit citizenship.

5. Some American citizens who have fought to defend the United States cannot give citizenship to their children,

while aliens who may have even fought against the United States can give citizenship to their children depending upon the latitude and longitude of the location of birth. This seems most unfair, and a sad form of gratitude to those who have served in the Armed Forces.

The Solution

American Democrats Abroad would therefore propose that the present law be changed to read as follows:

NEW SECTION 301 (a) 7

"(7) a person born outside the geographical limits of the United States and its outlying possessions of parents one of whom is an alien, and the other a citizen of the United States who, prior to the birth of such person, has had a residence in the United States or one of its outlying possessions."

This change would not give any advantage to an American living abroad with an alien spouse, but would give him the same conditions for automatically transmitting citizenship to his children that apply to all other Americans living overseas and to aliens having children in the United States.

Only such a change can bring a full sense of equity to our American law. This principle applied to the children of American males for over 140 years.[1] It is time to bring it back for all American citizens. Only then will children of Americans have full rights with children of aliens, and with children born out of wedlock overseas to an American mother.

---

[1] From 1790 until 1932, American law provided for children of American male citizens to automatically acquire citizenship when born abroad.

SECTION 301 (B)

Section 301 (b) refers exclusively to Section 301 (a) 7, and creates the conditions subsequent which children born overseas to one American parent and one alien parent must fulfill in order to keep this citizenship permanently.

Section 301 (b) reads as follows:

"Any person who is a national and citizen of the United States at birth under paragraph (7) of subsection (a), shall lose his nationality and citizenship unless - (1) he shall come to the United States and be continuously physically present therein for a period of not less than two years between the ages of fourteen years and twenty-eight years; or (2) the alien parent is naturalized while the child is under the age of eighteen years and the child begins to reside permanently in the United States while under the age of eighteen years. In the administration of this subsection absences from the United States of less than sixty days in the aggregate during the period for which continuous physical presence in the United States is required shall not break the continuity of such physical presence."

When this requirement was first established in 1932, and in all subsequent Congressional discussion of its purpose, there has been a continual reference to the need for such children to establish a valid nexus of connection to the United States in order to permanently enjoy the possession of United States citizenship. The implication, obviously, is that in families where only one parent is a citizen, such a nexus cannot be established overseas, while in a family where both parents are citizens such nexus is created.

There is no requirement, however, for a nexus of connection to be established in the same manner for any other category of American citizen who acquires his citizenship at birth, whether this be acquired in the USA or overseas. Indeed, such a requirement for citizens born in the United States or naturalized in the United States would be held unconstitutional by the Supreme Court as contrary to the wording of the 14th Amendment.

Thus, here again, we have another anomaly in the law. Only certain American citizens have to reside in the United States for a certain length of time at least fourteen years after they acquired their citizenship, or else they can

be automatically stripped of their citizenship.

This condition subsequent has been challenged as unconstitutional in a recent case that was finally brought up to the Supreme Court. Earlier Supreme Court decisions had held that a citizen could not be stripped of his citizenship without due process of law because of the language of the 14th Amendment. In this case based upon a challenge to 301 (b) (see Rogers vs Bellei), the Court held in a 5 to 4 decision that the statute was Constitutional because children born overseas are not defined by the 14th Amendment and hence have none of the protection granted by the 14th Amendment against arbitrary loss of citizenship.

The Inequity of This Law

There are several glaring aspects of the inequity of Section 301 (b).

First, the law sets a condition subsequent for the retention of citizenship on only some American citizens and not all American citizens. Thus among all those children who acquire citizenship at birth, some are more equal than others.

Second, the requirement for a nexus of connection to the United States by a two year residence in the United States applies only to those children born overseas with one American parent. This implies that in such families no such efficient nexus can possibly be established in any situation, whereas in families with two American parents it is always efficiently established overseas. The law, therefore, is really an expressed moral judgement on the character of the home environment in families with one or two American parents. There is however an exception. If the child is illegitimate, and the father never claims the child, and the mother is American and had lived for one year in the United States prior to the birth of this child, a nexus can be established overseas and no residence is required in the United States for this child to retain his citizenship. The law here implies that a home with only one parent suffices for nexus, but if there are two and one is an alien no nexus can ever be established.

Third, while children of an American parent, born with citizenship at birth overseas, need to fulfill residence of two years in the United States, children born in the United

States to two alien parents have no subsequent residence requirement in the United States to retain this citizenship. This is true even if this child leaves the United States a day or two after his birth and never returns. Thus, the law requires a nexus of two years for a child of an American parent, but requires none of children of aliens. Or else, the law implies that the date of birth of the alien child creates an efficient and acceptable nexus of connection to the United States, whereas a child of an American citizen cannot create such a nexus before the age of sixteen and only by having then resided for two years. Two years after the age of fourteen is thereby equated to one day in terms of creating sufficient attachment to the United States to qualify for retention of citizenship.

Fourth, there is a discrimination against children born overseas with citizenship at birth, as opposed to children born to an American parent without acquiring citizenship at birth. Section 322 of the Law allows an American parent to apply for the immediate naturalization of a child by coming to the United States and beginning a permanent residence. Such a child can be immediately naturalized if under the age of eighteen. There is no requirement for prior or subsequent residence in the United States. Thus in a matter of a few days such a child can be naturalized and then return overseas with the parents and have no further need for creating a nexus of connection. The child born overseas having acquired citizenship at birth cannot avail himself of this facility and cannot avoid the two year residence requirement. He obviously cannot be naturalized because he already is a citizen. The law here demonstrates its most flagrant inequity. It is easier for a child born to an American parent to acquire citizenship through naturalization than it is for a child born a citizen to retain his citizenship. A nexus of two years is required of the one, and a nexus of a few days suffices for the other.

In summation, while there is an understandable feeling on the part of certain members of Congress that some nexus of connection should exist between citizens of the United States and the United States itself, the present law is a most inequitable way of seeking to set requirements for the creation of such a nexus. This law strikes at only a very few of the children who are born with American citizenship, and creates a residency requirement which results in the retention of citizenship being more burdensome than the acquisition of citizenship. Furthermore, the law, at least by implication, casts unfair and unacceptable aspersions on the nature of the home and family environment in those cases where an American citizen is married to a

non-citizen. The law cannot, and therefore does not, set any requirements for retention of citizenship by children born to aliens in the United States.

The only equitable solution, therefore, is to abolish the residency requirements for children who acquire citizenship at birth overseas, and thereby to make such children equally protected for the retention of their citizenship with all other American citizens.

Once again, we seek no special advantage for children born to an American parent overseas. But, we do ask that they be treated equally with all other children acquiring citizenship at birth. All citizens should be equal. Some should not be more equal than others.

The Solution

American Democrats Abroad hereby call upon the Congress to revise the present Immigration and Nationality Law by:

Striking out and deleting Section 301 (b).

SECTION 350

Section 350 of the present Immigration and Nationality Law addresses the problem of dual nationality, and particularly sets the conditions in which children born with dual nationality can lose their American citizenship.

This section reads as follows:

"SEC. 350. A person who acquired at birth the nationality of the United States and of a foreign state and who has voluntarily sought or claimed benefits of the nationality of any foreign state shall lose his United States nationality by hereafter having a continuous residence for three years in the foreign state of which he is a national by birth at any time after attaining the age of twenty-two years unless he shall--

(1) prior to the expiration of such three-year period, take an oath of allegiance to the United States before a United States diplomatic or consular officer in a manner prescribed by the Secretary of State; and

(2) have his residence outside of the United States solely for one of the reasons set forth in paragraph (1),(2),(4),(5),(6),(7), or (8) of section 353, or paragraph (1) or (2) of section 354 of this title;

Provided, however, That nothing contained in this section shall deprive any person of his United States nationality if his foreign residence shall begin after he shall have attained the age of sixty years and shall have had his residence in the United States for twenty-five years after having attained the age of eighteen years. "

This is the Catch 22 section of the present law as far as children born overseas to one American parent acquiring citizenship at birth are concerned. For, as indicated above, these children will be in permanent jeopardy of losing their American citizenship even if they fulfill the two year residency requirement for retention of citizenship under Section 301 (b). And, indeed, under certain circumstances, there is not even a full period between the ages of fourteen years and twenty eight years in which to fulfill the requirements of 301(b) because under 350 the citizenship can be lost at age 25.

Furthermore, the law is most unfortunate in its wording, and in the manner in which it is administered because

there is no known definition of a "benefit" which such a citizen can learn in advance so as to avoid putting his citizenship in jeopardy. At a recent conference in Paris to discuss this problem, the Consular Officer from the American Embassy in Paris revealed that no one, not even the Consular Service, or the State Department in Washington, can tell a citizen vulnerable under Section 350 of the Law what does or does not constitute a "benefit" such that its solicitation or acceptance will result in the loss of citizenship. The way this law is now administered, the Consular Service questions applicants for renewal of their passports as to what benefits they have sought or accepted from the country in which they are living, and then decides on a case by case basis whether such a benefit has resulted in the loss of citizenship by this citizen. The citizen has no recourse under law. Once the State Department decides that the citizenship is lost, it is lost.

This law creates a monsterous sword of Damocles which hangs over the head of all citizens born overseas with American citizenship and the nationality of another country. What makes the sword so precarious is that any period of residence in the country whose other nationality was acquired at birth longer than three years after the age of twenty-two can bring loss of citizenship without the citizen having been aware of his committing an act of jeopardy. Indeed, under the language of the law, if he seeks the benefit of a third country, and then moves to the country whose nationality he acquired at birth and never takes any benefit from this country, he still loses his citizenship.

The Inequity of this Law

Here again the inequity of the law is self-condemning. Some citizens may reside throughout the world where and however long they may please, and may even seek benefits under the laws of these foreign countries. Other American citizens cannot do the same thing. Here again, some citizens are more equal than others.

Furthermore, this law is not only inequitable in that it treats citizens in an unequal manner, but it is also pernicious. The law is so vague that it makes it impossible for a vulnerable citizen ever to know how to protect himself. Even the State Department admits that only after an act has been committed and judged by the State Department can the citizen ever know if he has lost his citizenship. This is an abomination and totally unacceptable.

An inequity also is raised because the law allows naturalized citizens to return to live in the countries from which they formerly came. There used to be a statutory prohibition on such return residence, or indeed any residence overseas longer than five years, by a naturalized citizen but this was held to be unconstitutional by the Supreme Court because it set up two classes of citizenship.

As the law now stands there are still two classes of citizenship acquired at birth. One, not in jeopardy due to Section 350, is allowed to live wherever they choose in the world. The other cannot live in certain countries longer than three years. This is unacceptable. One citizen should not be more equal than another.

The Solution

American Democrats Abroad hereby call upon the Congress to revise the present Immigration and Nationality Law by:

STRIKING AND DELETING SECTION 350.

Should the Congress feel that in the case of dual nationals at birth an oath of allegiance to the United States needs to be made at age eighteen, this would be acceptable to American Democrats Abroad. However, there should be no restriction on the subsequent residence of any American citizen anywhere in the world. All American citizens must be equal. None should be more equal than any other.

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[redacted] 2 March 1977.